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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,009	08/31/2001	Daniel J. Reed	00-1048	9362
40158	7590	01/07/2005	EXAMINER	
LEONARD & PROEHL, PROF. L.L.C. 3500 SOUTH FIRST AVENUE CIRCLE SUITE 250 SIOUX FALLS, SD 57105			WEEKS, GLORIA R	
		ART UNIT		PAPER NUMBER
		3721		
DATE MAILED: 01/07/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/944,009	REED, DANIEL J.
	Examiner	Art Unit
	Gloria R Weeks	3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 07 December 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1,3,4,7,8,11,13-16,21-24 and 26 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 8,11,13-16 and 24 is/are allowed.

6) Claim(s) 1,4,7,21-23 and 26 is/are rejected.

7) Claim(s) 3 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ .

5) Notice of Informal Patent Application (PTO-152)

6) Other: ____ .

DETAILED ACTION

1. This action is in response to Applicants' amendment received on December 7, 2004.
2. The indicated allowability of previously pending claim 10 is withdrawn in view of the newly discovered reference(s) to Ishizawa et al. (USPN 5,495,973).

Specification

3. Applicant is reminded of the proper language and format for an abstract of the disclosure. The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 4, 7, 14, 21-23 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Butler et al. (USPN 3,301,101) in view of Ishizawa et al. (USPN 5,495,973).

In reference to claims 1, 7, 14, 21-23 and 26, Butler et al. discloses an adapter for converting a hammer tool into a multiple-impact object driving tool, the hammer tool having a housing (2) with a barrel portion (4) including a rear section and a nose section, the hammer having a reciprocating impact member (28), the adapter comprising: a shroud (8) having interior threads for removably mounting on the hammer tool, having a bore (102) formed through the upper shroud (8) between a forward end and rearward end, the rearward end of the shroud removably receiving a portion of the hammer device and having a outer surface diameter larger than the outer surface diameter of the forward end, thereby including a frusta-conical intermediate portion; a drive punch (6) positioned in the bore (102) of the shroud (8) with a rear section, including retaining means (94), for being impacted by the reciprocating impact member (6) and a forward end for impacting an object (142) to be driven; and a guide bushing (10) extending forwardly from the shroud (8), having a forward and rearward end, a channel (114) extending through the guide busing (10) between the forward and rearward ends for receiving a portion of the object (142) to be driven, the guide bushing (10) being slidably mounted (figures 5-6) on the front portion of the shroud (8) such that the guide bushing (10) is movable between an extended position (figure 5) and a retracted position (figure 6); wherein the channel of the guide bushing (10) has an entire length and the entire length is substantially uniform in diameter along the entire length, and the uniform diameter being slightly larger than the forward end of the drive punch (6).

Butler et al. does not disclose the use of a magnetic member. Ishizawa et al. teaches a hammer tool having a drive punch (20) positioned in the bore of a shroud (27); a guide bushing (24) extending from and slidably (23) mounted to the shroud (27), the guide bushing (24) including a magnetic member (40). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the guide bushing of Butler et al. to include the magnet member of Ishizawa et al. for the purpose of retaining an object in the guide bushing (Ishizawa et al.-column 6 lines 43-48).

In reference to claim 4 and its limitations as stated above, Butler et al. discloses an adapter for converting a hammer tool into a multiple-impact object driving tool additionally comprising a biasing means (12) for biasing the guide bushing (10) into an extended position (figure 5) with respect to the shroud (8).

Allowable Subject Matter

6. Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 8, 11, 13, 15, 16 and 24 are allowed.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria R Weeks whose telephone number is (571) 272-4473. The examiner can normally be reached on 7:30 am - 6:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott A Smith can be reached on (571) 272-4469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gloria R Weeks
Examiner
Art Unit 3721

GRW
grw
January 5, 2005


SCOTT A. SMITH
PRIMARY EXAMINER